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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,269	03/18/2004	Michael George Elias	JFMZ 2 00177	5390

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EXAMINER

HARTMANN, GARY S

ART UNIT PAPER NUMBER

3671

DATE MAILED: 07/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/803,269

Applicant(s)

ELIAS ET AL.

Examiner

Gary Hartmann

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/18/4.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

Claims 8 and 21 are objected to because it is not clear what is and is not within the scope of the term "somewhat." Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 5-7, 11, 12, 15-17 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by LaRoche et al. (U.S. Patent 4,848,044).

LaRoche et al. discloses an expansion joint having a resilient body (30) located between mounting elements (26) and also positioned between a membrane (28) and a layer of sealant material (12).

Adhesive is used as a means for securing the membrane to the mounting elements.

The mounting elements are plates and include an anchor body (46) extending away from each respective plate.

The resilient body (30) is approximately round (Figure 1, for example).

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Claims 1-7, 11-16, 18 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Anaya et al. (U.S. Patent 6,666,618).

Anaya et al. discloses an expansion joint having a resilient body (52) located between mounting elements (60, 62) and also positioned between a membrane (54) and a layer of sealant material (74).

Adhesive is used as a means for securing the membrane to the mounting elements.

For each mounting element, there is a bar (28, 44, for example) with a fastener (76, 78) secured thereto.

The resilient body (52) is approximately round (Figure 1, for example).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 4, 8-10, 13, 14, 18, 19 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaRoche et al., as applied above.

LaRoche et al. does not teach bars as the means for securing; however, it is well known to use bars in the manner claimed in order to obtain a secure anchor in a foundation. For this purpose, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the claimed means for securing.

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Regarding the shape of the resilient body, this shape is well known. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the shape as claimed in order to obtain an joint suitable for a particular application.

Claims 8-10, 17, 19 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anaya et al., as applied above.

Regarding the shape of the resilient body, this shape is well known. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the shape as claimed in order to obtain an joint suitable for a particular application.

The anchor bodies have perpendicular and parallel portions (Figure 1, for example), but no acute angle. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used an acute angle in order to achieve a mount more suitable for particular loading situations, for example.

Anaya et al. teaches a bolt and bar to be integral. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used separate parts in order to suit a particular application. Note that changing an existing unitary structure into separate pieces is not patentable subject matter.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Hartmann whose telephone number is 571-272-6989. The examiner can normally be reached on Monday through Thursday, 9am-7pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary Hartmann
Primary Examiner
Art Unit 3671

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